

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Geraldine Mund, Presiding  
Courtroom 303 Calendar**

**Tuesday, May 4, 2021**

**Hearing Room 303**

9:30 AM

**1:00-00000**

**Chapter**

**#0.00 The 10:00 am calendar will be conducted remotely, using ZoomGov video and audio.**

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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**Video/audio web address:** <https://cacb.zoomgov.com/j/1607607629>

**Meeting ID:** 160 760 7629

**Password:** 394333

**Telephone Conference Lines:** 1 (669) 254-5252 or 1 (646) 828-766

**Meeting ID:** 160 760 7629

**Password:** 394333

Docket 0

**Matter Notes:**

- NONE LISTED -

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**CONT...**

**Chapter**

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
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**Tuesday, May 4, 2021**

**Hearing Room 303**

10:00 AM

**1:13-10386 Shirley Foose McClure**

**Chapter 11**

**#1.00 Status conference re: ch 11 case**

fr. 1/24/2013, 4/30/13, 5/14/13, 7/23/13, 8/6/13,  
9/17/13, 9/24/13, 11/19/13, 12/17/13, 1/21/14, 2/18/14,  
3/11/14, 4/15/14, 5/6/14, 6/24/14, 9/9/14, 9/23/14,  
10/7/14, 11/24/14, 1/6/15, 1/20/15, 2/10/15, 3/10/15,  
4/28/15; 5/12/15; 9/29/15, 10/22/15, 12/8/15, 3/1/16,  
6/7/16, 7/12/16, 8/16/16, 10/11/16; 12/20/16, 4/4/17,  
5/16/17; 6/27/17, 7/11/17, 9/19/17, 11/14/17, 11/28/17,  
12/19/17, 1/9/18, 3/19/18, 3/27/18, 5/1/18, 6/5/18; 6/26/18,  
7/9/18; 8/7/18, 11/6/18; 12/18/18; 1/29/19; 2/12/19; 3/5/19  
3/26/19; 4/16/19, 8/6/19, 10/8/19; 10/22/19, 11/19/19,  
11/17/20, 4/20/21(vacated - moved to 2/23/21), 2/23/21

Docket 1

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

CONTINUE WITHOUT APPEARANCE TO MAY 25, 2021 AT 10:00 A.M. TO BE HEARD WITH THE MOTION(S) SCHEDULED AT THAT TIME. NO FURTHER STATUS REPORT IS REQUIRED FOR THAT HEARING.

Prior tentative ruling (2/23/21)

Based on Judge Wu's affirmation, it appears that all matters in this court as to the Litt parties are completed. There is still a superior court action brought by Jason McClure, but that is not an asset of this estate.

The Trustee's status report indicates that he is seeking to explore another settlement with the insurance companies in the Tidus action and is also attempting to identify qualified contingency counsel to represent the estate in that case. He has also requested that Ms. McClure retain bankruptcy counsel and meet with the Trustee and his counsel to discuss disposition of the estate's remaining assets, the Debtor's homestead exemption, and the

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**CONT... Shirley Foose McClure**

**Chapter 11**

Trustee's intent to windup the bankruptcy case.

The Trustee is also obtaining estimates of the amounts due to administrative claimants. It appears that the aggregate amount will slightly exceed the estate's current available cash.

The Trustee is moving to dispose of the remaining assets. Hewitt appears to have no equity and the Trustee is attempting to contact the trust deed holder to discuss its disposition. Gregory, which is the Debtor's residence and 95% is owned by the Debtor with 5% by Jason, will be marketed and sold.

That further actions - if any - does Ms. McClure plan to take?

<b>Party Information</b>
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**Debtor(s):**

Shirley Foose McClure

Represented By  
Andrew Goodman  
Yi S Kim  
Robert M Scholnick  
James R Felton  
Faye C Rasch  
Faye C Rasch  
Lisa Nelson  
Michael G Spector

**Trustee(s):**

John P. Reitman

Represented By  
John P Reitman  
Jon L Dalberg

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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#2.00** Motion RE: Objection to Claim Number 2-1  
by Claimant Russell Coffill, DB Servicing Corp..

Docket 302

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

**Has this been served to the correct address in that the mailing envelope was not returned to Mr. Shoemaker?**

For some reason Mr. Shoemaker identifies the creditor as Russell Coffill, while the actual creditor is Discover Bank. But the notice address is on the proof of claim. This is a credit card claim for \$7,816.31. The last payment was on Sept. 12, 2007. There is a four year statute of limitations to start the action and that expired on Sept. 12, 2011.

On February 18, 2010, Shoemaker filed a petition under chapter 13 (1:10-bk-15744), which was dismissed on March 15, 2010. The current chapter 7 case was filed on May 25, 2010. Shoemaker filed a motion to extend the automatic stay on May 26, 2010 and set it for hearing on June 23, 2010 (dkt. 3). Apparently there was some problem with that hearing date and on June 24, 2010 he filed an application to shorten time for a hearing on that motion (dkt. 9). The application to shorten time was denied on July 6, 2010 (dkt. 11) and the hearing was set for August 4, 2010. The court entered its order denying the motion to impose the stay on November 17, 2010 (dkt. 32).

11 USC §362(c)(3) applies when a second bankruptcy case is filed by an individual within a one year period of a prior case that was dismissed. Under these circumstances, the automatic stay terminates 30 days after the filing of the current chapter 7 petition unless the stay is extended by the court. The motion to extend requires notice and a hearing that is completed within the 30 day period after the subsequent case is filed. In this case the hearing was not completed within the 30 day period and, even if it had been, the motion to extend the stay was denied. Thus, the automatic stay in the current case terminated by force of law on June 24, 2010, even though the

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**CONT... Mark Alan Shoemaker**

**Chapter 7**

order denying the motion to extend was not entered until November 17, 2010. The record clearly shows that there was no hearing within the 30 days – in fact the application to shorten time was filed the day before the last day of the stay and no hearing was held on that day. Thus the stay terminated as a matter of law on June 24, 2010. Without dealing with the issue of whether the court should count the days when there was no stay before June 24, 2010, even if we add the 30 days under §108, more than 4 years has passed since July 24, 2010. And unlike the issue of giving notice to creditors of the denial of discharge, no notice was required concerning the termination of the automatic stay because this occurred as a matter of law when no timely extension was granted. No collection action was taken within the statute of limitations period and so this debt is no longer subject to collection. SUSTAIN THE OBJECTION.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

**United States Bankruptcy Court  
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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#3.00** Motion RE: Objection to Claim Number 3-1  
by Claimant Maria Contreras.

Docket 290

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

**Has this been served to the correct address in that the mailing envelope was not returned to Mr. Shoemaker?**

For some reason, the claims docket shows the creditor to be March Eang at a Santa Ana address. This is incorrect since the claim itself is definitely by Ms. Contreras, who had an agreement with Mr. Shoemaker for him to provide legal services. The clerk's office has corrected the error. Ms. Contreras asserts that she paid \$15,000 and did not receive the services. The attachments appear to verify the payments, most of which were to the Law Office of Mark Shoemaker with some to Advocate For Fair Lending. Shoemaker asserts that his Law Office and he only received \$2,500 and that Advocates is a separate entity. The last payment was in 2010 and then Shoemaker was suspended from practice. Claimant got a new attorney.

The opposition evidence shows that Ms. Contreras received \$11,552.17 on May 2, 2014 from the California Bar Client Security Fund for Case #12-F-17624, leaving an unpaid balance of about \$3,500. Shoemaker asserts that the one year statute of limitations started running when he no longer represented Ms. Contreras and this began on May 31, 2010. There was never a judgment.

In reviewing this case, the Court finds that on February 18, 2010, Shoemaker filed a petition under chapter 13 (1:10-bk-15744), which was dismissed on March 15, 2010. The current chapter 7 case was filed on May 25, 2010. Shoemaker filed a motion to extend the automatic stay on May 26, 2010 and set it for hearing on June 23, 2010 (dkt. 3). Apparently there was

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**CONT... Mark Alan Shoemaker**

**Chapter 7**

some problem with that hearing date and on June 24, 2010 he filed an application to shorten time for a hearing on that motion (dkt. 9). The application to shorten time was denied on July 6, 2010 (dkt. 11) and the hearing was set for August 4, 2010. The court entered its order denying the motion to impose the stay on November 17, 2010 (dkt. 32).

11 USC §362(c)(3) applies when a second bankruptcy case is filed by an individual within a one year period of a prior case that was dismissed. Under these circumstances, the automatic stay terminates 30 days after the filing of the current chapter 7 petition unless the stay is extended by the court. The motion to extend requires notice and a hearing that is completed within the 30 day period after the subsequent case is filed. In this case the hearing was not completed within the 30 day period and, even if it had been, the motion to extend the stay was denied. Thus, the automatic stay in the current case terminated by force of law on June 24, 2010, even though the order denying the motion to extend was not entered until November 17, 2010. The record clearly shows that there was no hearing within the 30 days – in fact the application to shorten time was filed the day before the last day of the stay and no hearing was held on that day. Thus the stay terminated as a matter of law on June 24, 2010.

No action was brought by Ms. Contreras against Shoemaker within the year after June 24, 2010 and the statute of limitations expired at that time.

**SUSTAIN THE OBJECTION.**

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov



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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#4.00** Motion RE: Objection to Claim Number 4  
by Claimant Pedro Napoles.

Docket 292

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

**Has this been served to the correct address in that the mailing envelope was not returned to Mr. Shoemaker?**

The claim is for \$8,500. The attachments show that \$1,000 was paid to the Law Offices of Mark Shoemaker; there were three checks to Advocate For Fair Lending, totaling \$7,500. Shoemaker was suspended from practice on May 31, 2010 and he sent Mr. Naples a notice to that effect on June 1, 2010.

On February 18, 2010, Shoemaker filed a petition under chapter 13 (1:10-bk-15744), which was dismissed on March 15, 2010. The current chapter 7 case was filed on May 25, 2010. Shoemaker filed a motion to extend the automatic stay on May 26, 2010 and set it for hearing on June 23, 2010 (dkt. 3). Apparently there was some problem with that hearing date and on June 24, 2010 he filed an application to shorten time for a hearing on that motion (dkt. 9). The application to shorten time was denied on July 6, 2010 (dkt. 11) and the hearing was set for August 4, 2010. The court entered its order denying the motion to impose the stay on November 17, 2010 (dkt. 32). 11 USC §362(c)(3) applies when a second bankruptcy case is filed by an individual within a one year period of a prior case that was dismissed. Under these circumstances, the automatic stay terminates 30 days after the filing of the current chapter 7 petition unless the stay is extended by the court. The motion to extend requires notice and a hearing that is completed within the 30 day period after the subsequent case is filed. In this case the hearing was not completed within the 30 day period and, even if it had been, the motion to extend the stay was denied. Thus, the automatic stay in the current case

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**CONT... Mark Alan Shoemaker**

**Chapter 7**

terminated by force of law on June 24, 2010, even though the order denying the motion to extend was not entered until November 17, 2010. The record clearly shows that there was no hearing within the 30 days – in fact the application to shorten time was filed the day before the last day of the stay and no hearing was held on that day. Thus the stay terminated as a matter of law on June 24, 2010. The longest statute of limitations would be 4 years for breach of a written contract. That expired no later than June 2014. No legal action was filed by Mr. Napoles, so his claim is unenforceable. SUSTAIN THE OBJECTION.

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#5.00** Motion RE: Objection to Claim Number 6  
by Claimant David Carranza.

Docket 294

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

**Has this been served to the correct address in that the mailing envelope was not returned to Mr. Shoemaker?**

The claim is for \$7,600. There is a check from Brenda Jeanette Carranza to Shoemaker's Law Office for \$1,000. There are checks for an additional \$6,600 made out to Advocate For Fair Lending, but given to Shoemaker. Mr. Carranza says that he received a small claims judgment. But does not attach that or the agreement with Mr. Shoemaker.

Mr. Shoemaker attaches a list of payments to his former clients by the California Bar Client Security Fund that shows that Mr. Carranza received \$7,600 for case 11-F-12095 on June 14, 2013. So this claim has been paid in full.

**SUSTAIN THE OBJECTION.**

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#6.00** Motion RE: Objection to Claim Number 7 by  
Claimant George Castro c/o Andrew H. Griffin.

Docket 304

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

**Has this been served to the correct address in that the mailing envelope was not returned to Mr. Shoemaker?**

The claim is for \$330,000. The payments to Shoemaker's law office was \$1,000 and there were three payments to Advocate For Fair Lending totaling \$9,162.66. Mr. Castro filed bankruptcy in the Southern District of CA and failed to list this claim (09-17551). The Trustee in that case did not abandon the claims. But Mr. Castro filed this proof of claim over three years after he received his discharge. This claim is for sanctions. Because the claim was not listed in the schedules, it was not abandoned on the closing of the case. Thus Mr. Castro has no standing to pursue this claim, since it still belongs to the Trustee in his case. Castro acted in such a way as to deny his discharge under §727(a)(4) since this is a false oath in his bankruptcy case.

Service was made on George Castro % Andrew H. Griffin, who was Castro's attorney in his bankruptcy case as well as on filing the proof of claim. A review of the CA(S) docket shows that Castro's bankruptcy case was still open and active until April 2010 at which point it was closed as a no-asset case.

There is no documentation attached to the claim to support the \$330,000 figure. Notice of this objection to claim was served on Mr. Griffin at his address on both the proof of claim and as registered at the State Bar of CA. But no notice was given to the Trustee in the bankruptcy case (Richard Kipperman). The CA(S) dockets do not show him on any cases filed after 2018. Therefore notice must be given to him and also to the United States

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**CONT... Mark Alan Shoemaker**

**Chapter 7**

Trustee for the Southern District of California.

**Continue this to June 29, 2021 at 10:00 a.m. so that Mr. Shoemaker can give notice to Mr. Kipperman and to the Office of the United States Trustee for the Southern District of California.**

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

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10:00 AM

**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#7.00** Motion RE: Objection to Claim Number 9  
by Claimant Madana Shoemaker c/o Stuart  
Walker.

Docket 296

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

This claim arises out of a family law dissolution matter brought by Mark Shoemaker (LASC ND055378), which resulted in a judgment for Ms. Shoemaker on August 11, 2008. An abstract of judgment was issued on Sept. 23, 2009 and a writ of execution for support arrearages was issued on Oct. 1, 2009. This judgment was for \$43,000 in lieu of spousal support.

Mr. Shoemaker asserts that the judgment has expired under CCP § 683.020 because more than 10 years has passed since its entry and it has never been renewed. The current bankruptcy was filed on May 25, 2010 and the automatic stay terminated either on June 25, 2010 or on October 15, 2010 (which the motion to extend the stay was denied). Even adding 30 days as provided in §108, the judgment expired in 2018.

In response, Ms. Shoemaker's attorney points out that CCP §683.020 does not apply to Family Law order and judgments made or entered pursuant to the Family Code. CCP §683.10. Also, California Family Law §291 provides that a Family Law judgment is enforceable until paid in full or otherwise satisfied and that it need not be renewed

Cal. Fam. Code §291

(a) A money judgment or judgment for possession or sale of property that is made or entered under this code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied.

(b) A judgment described in this section is exempt from any requirement that a judgment be renewed. Failure to renew a judgment described in this section has no effect on the enforceability of the judgment.

**OVERRIDE THE OBJECTION.**

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**CONT...     Mark Alan Shoemaker**

**Chapter 7**

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

**United States Bankruptcy Court  
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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#8.00** Motion RE: Objection to Claim Number 10  
by Claimant Thompson Attorney Service.

Docket 306

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

**Has this been served to the correct address in that the mailing envelope was not returned to Mr. Shoemaker?**

The claim is for \$17,101.50. Shoemaker says that this was a credit card obligation, but it looks like a breach of contract to pay an attorney service. The claim shows \$10,300 to Shoemaker and apparently credits \$5,000 for "advanced fee deducted," for the May 31, 2010 statement shows a balance of \$17,101.50. Shoemaker asserts that the last payment was Sept. 12, 2007, but no documentation supports this.

On February 18, 2010, Shoemaker filed a petition under chapter 13 (1:10-bk-15744), which was dismissed on March 15, 2010. The current chapter 7 case was filed on May 25, 2010. Shoemaker filed a motion to extend the automatic stay on May 26, 2010 and set it for hearing on June 23, 2010 (dkt. 3). Apparently there was some problem with that hearing date and on June 24, 2010 he filed an application to shorten time for a hearing on that motion (dkt. 9). The application to shorten time was denied on July 6, 2010 (dkt. 11) and the hearing was set for August 4, 2010. The court entered its order denying the motion to impose the stay on November 17, 2010 (dkt. 32).

11 USC §362(c)(3) applies when a second bankruptcy case is filed by an individual within a one year period of a prior case that was dismissed. Under these circumstances, the automatic stay terminates 30 days after the filing of the current chapter 7 petition unless the stay is extended by the court. The motion to extend requires notice and a hearing that is completed within the 30 day period after the subsequent case is filed. In this case the hearing was not completed within the 30 day period and, even if it had been,



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**CONT... Mark Alan Shoemaker**

**Chapter 7**

the motion to extend the stay was denied. Thus, the automatic stay in the current case terminated by force of law on June 24, 2010, even though the order denying the motion to extend was not entered until November 17, 2010. The record clearly shows that there was no hearing within the 30 days – in fact the application to shorten time was filed the day before the last day of the stay and no hearing was held on that day. Thus the stay terminated as a matter of law on June 24, 2010. And unlike the issue of giving notice to creditors of the denial of discharge, no notice was required concerning the termination of the automatic stay because this occurred as a matter of law when no timely extension was granted.

Using the May 31, 2010 date as the operative one, the four year statute of limitations would have ended in 2014. No collection action was filed by that time. SUSTAIN THE OBJECTION.

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#9.00** Motion RE: Objection to Claim Number 11-1  
by Claimant Yolanda Ortega.

fr. 3/16/21

Docket 271

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

An amended objection has been filed and so the tentative ruling on this objection and that one are both set forth in cal. #10.

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

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**1:14-15182 Mark Alan Shoemaker**

**Chapter 7**

**#10.00** Amended Motion objection to claim no. 11-1  
from Yolanda Ortega (related document(s):  
271 Motion RE: Objection to Claim Number  
11 by Claimant Yolanda Ortega. filed by Debtor  
Mark Alan Shoemaker)

Docket 298

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

This is an amended objection to the claim of Yolanda Ortega. This tentative ruling incorporates the one for the initial objection. THE INITIAL TENTATIVE RULING WAS PREPARED ON 3/14. ON 3/15 MR SHOEMAKER FILED A SUPPLEMENTAL DECLARATION THAT THE MOTION SENT TO MS. ORTEGA WAS RETURNED TO HIM. WAS IT SENT FIRST CLASS (AS NOTED BELOW) AS WELL AS CERTIFIED? HAS PROPER SERVICE BEEN COMPLETED? WAS THE ENVELOPE RETURNED TO HIM?

Initial Tentative Ruling on Objection to Claim #11 (dkt. 271)

On January 22, 2010, Ms. Ortega obtained a judgment against both Advocate for Fair Lending, LLC. and Shoemaker in LASC LB 09593308 for \$3,000 and costs of \$110. On May 28, 2010 Ms. Ortega conducted (or obtained an order for) a judgment debtor examination of Mr. Shoemaker. No other enforcement effort is reflected on the state court docket.

Mr. Shoemaker objects on several grounds, including that Ms. Ortega did not attempt to collect from Advocate. As to that theory, there is no requirement that she pursue any remedy against Advocate for Fair Lending, LLC., including filing a proof of claim in that no-asset bankruptcy case (2:10-bk-32494-PC). Further, he asserts that the claim "only applies to the Advocate bankruptcy." This is a false statement since the judgment in state court is against both Advocate and Shoemaker. Shoemaker is attempting to

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**CONT... Mark Alan Shoemaker**

**Chapter 7**

reargue the grounds of the state court judgment and that is prohibited.

As to the statute of limitations on enforcement of a judgment, Shoemaker is legally correct. A summary of California law is as follows:

Cal. Code of Civ. Proc. §683.020 states that a money judgment may not be enforced after the expiration of 10 years after the date of entry. The issue here is that there was a stay of enforcement due to the automatic stay, which ran from the date of filing of the Shoemaker bankruptcy (May 25, 2010) until the date that his discharge was denied (January 14, 2018). And although there was no stay, that denial of discharge unquestionably became final no later than the dismissal of his appeal (December 5, 2019). 11 USC §362(c) (2)(C).

California law allows a judgment creditor to extend the enforcement date of a judgment by renewing it within the 10 year effective time and this can be done even though a stay of enforcement is in effect. Cal. Code Civ. Proc. §683.210. "Renewal during a stay of enforcement does not affect the stay, but merely prevents the termination of the period of enforceability." [16 Cal.L.Rev.Comm. Reports 1219 (1982)]

There is a conflict in the interpretation of how the automatic stay affects the act of filing a renewal of a California judgment. The one thing that is clear is that the running of the 10 year period is not stayed by the automatic stay. Rather, if the 10 years expires during the existence of the automatic stay, there is a 30 day extension after notice of the termination of the stay or its expiration under 11 USC §362. 11 USC §108(c). In this case, although the operative date of the denial of discharge occurred on either the date of judgment in the adversary case (January 14, 2018) or the dismissal of the appeal (December 5, 2019), the court did not send out notice until March 2, 2021 (dkt. 270) and there is nothing on the docket showing that notice of the denial of discharge was given to Ms. Ortega or any other claimant prior to that date. Even the original objections to the Ortega claims, which were filed on July 10, 2019, do not mention the denial of discharge. (dkt. 214, 216)

Thus the first notice to Ms. Ortega of the denial of discharge, which would start the clock running on her ability to renew the judgment due to the termination of the automatic stay, occurred with the filing and mailing of the current objections to her claims or the notice by the court. The objections were served by mail on her on February 18, 2021 at 1510 Carnation Way, Upland, CA 91786, which is the address on her proof of claim. The notice by the court used that same address. Assuming that this is a valid current

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address for Ms. Ortega, her judgment remains enforceable until April 1, 2021, although it is possible that there might be an additional 3 days due to the mailing of the motion which gave notice (11 USC §9006(f)). Either way, unless Mr. Shoemaker can show that notice was received prior to his mailing of this objection to claim, the time has not yet expired to renew the judgment, though it will do so in a few days. Therefor this motion must be continued.

In summary, the enforceability of the state court judgment would have terminated on January 22, 2020, but for the 30 day extension allowed by 11 USC §108. It appears that Ms. Ortega had no notice of the denial of discharge (and therefore the termination of the automatic stay) until served with this objection to her claim, which occurred on February 18, 2021 or perhaps the notice from the court served on March 2, 2021. If there is evidence that the objection was mailed to the correct address and therefore she is deemed to have received it, the judgment is still enforceable until March 20, 2021.

The proof of service on the objection states that service was made by first class mail, but Mr. Shoemaker's declaration states that he sent it by certified mail (dt. 282). This may make a difference on whether she received it since some people do not pick up items sent by certified mail. The court is attempting to monitor returned unopened mail addressed to the creditors in this case, but cannot be certain that it will be successful. However, this is the best that we can do. So, unless the envelope mailed by the court is returned, I will assume that the address is correct and that Ms. Ortega received notice of the discharge no later than March 5, 2021 (allowing 3 days for mailing). If Mr. Shoemaker did not send the objection by first class mail, he is to do so with the new hearing date, which will be May 4, 2021 at 10:00 a.m. The hearing will be by Zoom.

**Tentative Ruling on Amended Objection to the claim of Yolanda Ortega (dkt. 298)**

Mr. Shoemaker now raises the issue of the timing of the termination of the automatic stay due to his prior chapter 13 case. On February 18, 2010, Shoemaker filed a petition under chapter 13 (1:10-bk-15744), which was dismissed on March 15, 2010. The current chapter 7 case was filed on May 25, 2010. Shoemaker filed a motion to extend the automatic stay on May 26, 2010 and set it for hearing on June 23, 2010 (dkt. 3). Apparently there was some problem with that hearing date and on June 24, 2010 he filed an

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application to shorten time for a hearing on that motion (dkt. 9). The application to shorten time was denied on July 6, 2010 (dkt. 11) and the hearing was set for August 4, 2010. The court entered its order denying the motion to impose the stay on November 17, 2010 (dkt. 32).

11 USC §362(c)(3) applies when a second bankruptcy case is filed by an individual within a one year period of a prior case that was dismissed. Under these circumstances, the automatic stay terminates 30 days after the filing of the current chapter 7 petition unless the stay is extended by the court. The motion to extend requires notice and a hearing that is completed within the 30 day period after the subsequent case is filed. In this case the hearing was not completed within the 30 day period and, even if it had been, the motion to extend the stay was denied. Thus, the automatic stay in the current case terminated by force of law on June 24, 2010, even though the order denying the motion to extend was not entered until November 17, 2010. The record clearly shows that there was no hearing within the 30 days – in fact the application to shorten time was filed the day before the last day of the stay and no hearing was held on that day. Thus the stay terminated as a matter of law on June 24, 2010. Without dealing with the issue of whether the court should count the days when there was no stay before June 24, 2010, even if we add the 30 days under §108, more than 10 years has passed since July 24, 2010. And unlike the issue of giving notice to creditors of the denial of discharge, no notice was required concerning the termination of the automatic stay because this occurred as a matter of law when no timely extension was granted. The judgment was not renewed in that period of time and is no longer subject to collection. SUSTAIN THE OBJECTION.

<b>Party Information</b>
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**Debtor(s):**

Mark Alan Shoemaker

Represented By  
William H Brownstein

**Trustee(s):**

Alfred H Siegel (TR)

Represented By  
Jessica L Bagdanov

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**#11.00** Motion RE: Objection to Claim Number 13  
by Claimant Yolanda Ortega.

Docket 308

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

Off calendar. This is a duplicate claim to claim #11. The prior objection was sustained and the order was entered on March 31, 2021 as docket #288.

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**#12.00**    Motion RE: Objection to Claim Number 14  
by Claimant Lillie Burton.

fr. 3/16/21

Docket      275

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

There is an amended objection to the claim of Lillie Burton. See cal. #13 for the tentative ruling on the original objection, which was not overruled, but merely continued to this date.

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**1:14-15182 Mark Alan Shoemaker**

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**#13.00** Amended Motion objection to claim no. 14-1  
Lillie Burton c/o Elizabeth Quinn (related document(s):  
275 Motion RE: Objection to Claim Number 14 by  
Claimant Lillie Burton. filed by Debtor  
Mark Alan Shoemaker)

Docket 300

**Matter Notes:**

- NONE LISTED -

**Tentative Ruling:**

Initial Tentative Ruling on objection to claim #14 (dkt. 275)

On October 28, 2010, Ms. Burton obtained a judgment in the superior court against Mr. Shoemaker for \$13,097.37 to which were added costs of \$70 and accrued interest of \$1,626.27 through January 17, 2012 when an abstract of judgment was recorded. No other enforcement action was taken. (LASC NC052415) This judgment was solely against Mr. Shoemaker, who originally filed the complaint in his own name in what might have been a collection action against Ms. Burton. A copy of the judgment is attached to the declaration of Elizabeth Quinn (dkt. 281) and although it does not state the reason for the arbitration award, it seems that this may be for attorney fees in defending against Mr. Shoemaker's complaint. But this is not relevant.

The enforcement power of the judgment ended on October 28, 2020. Because of the bankruptcy, this is extended for 30 days after Ms. Burton receives notice that Mr. Shoemaker's discharge was denied. The law as to the extension to renew a judgment due to a bankruptcy stay is set forth below.

The first critical question here is that the state court judgment was granted about 5 months after this bankruptcy case was filed and there is no evidence that Ms. Burton was granted relief from the automatic stay. Although

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Shoemaker raised this as the basis for his original objection to the Burton claim (dkt. 200), his current objection is solely on the basis that the claim is barred because she failed to renew her judgment after 10 years. Nonetheless, the validity of the judgment is important and needs to be dealt this.

It is not surprising that there was no notice of the bankruptcy in the state court action or that Shoemaker did not attempt to stop it due to the bankruptcy. Because Shoemaker was the plaintiff in the state court action, there was no requirement that it be stayed. Assuming that Burton's judgment was merely the result of Shoemaker losing his case against her (and there does not appear to have been a cross-complaint), there was no need for her to seek relief from the automatic stay, even if she had known about the bankruptcy. There is no notice of the bankruptcy on the state court docket. The lawsuit was not listed as an asset of Shoemaker's estate (schedule B) or as litigation pending (statement of affairs). Ms. Burton is not on the original mailing matrix. Given these circumstances, the automatic stay did not void this judgment. However, it is possible that the Court is incorrect on the facts or the law and Mr. Shoemaker can amend his objection to deal with this.

Cal. Code of Civ. Proc. §683.020 states that a money judgment may not be enforced after the expiration of 10 years after the date of entry. The issue here is that there was a stay of enforcement due to the automatic stay, which ran from the date of filing of the Shoemaker bankruptcy (May 25, 2010) until the date that his discharge was denied (January 14, 2018). And although there was no stay, that denial of discharge unquestionably became final no later than the dismissal of his appeal (December 5, 2019). 11 USC §362(c) (2)(C).

California law allows a judgment creditor to extend the enforcement date of a judgment by renewing it within the 10 year effective time and this can be done even though a stay of enforcement is in effect. Cal. Code Civ. Proc. §683.210. "Renewal during a stay of enforcement does not affect the stay, but merely prevents the termination of the period of enforceability." [16 Cal.L.Rev.Comm. Reports 1219 (1982)] Ms. Quinn, original counsel for Ms. Burton, argues that the 10 year period can be further extended per CCP 683.040. This is incorrect as to the facts of this case.

There is a conflict in the interpretation of how the automatic stay affects the act of filing a renewal of a California judgment. The one thing that is clear is that the running of the 10 year period is not stayed by the automatic

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stay. Rather, if the 10 years expires during the existence of the automatic stay, there is a 30 day extension after notice of the termination of the stay or its expiration under 11 USC §362. 11 USC §108(c).

There is no question that – as of March 1, 2021 (the date of Ms. Quinn's declaration) that Ms. Burton had not had notice of the denial of discharge or of this objection to her claim. The only address known to Mr. Shoemaker or the court is that of Ms. Quinn, as this is the address on the proof of claim. Ms. Quinn asks for a 120 day extension to respond so that she has time to locate Ms. Burton and then give Ms. Burton time to find legal counsel, if she so wishes. Obviously a continuance is needed to locate and give notice to Ms. Burton.

I will continue this hearing to May 4, 2021 at 10:00 a.m. Ms. Quinn is to make her best efforts to locate a proper mailing address for Ms. Burton and is to have her file a change of address with the court. Ms. Quinn is also to provide Mr. Shoemaker and the court with the current mailing address for Ms. Burton and to send Ms. Burton copies of the notice of discharge and of the objection to claim and of any other documents served by Mr. Shoemaker or the court on Ms. Burton. Ms. Quinn need not respond to anything on behalf of Ms. Burton unless Ms. Burton authorizes her to do so. Unless Ms. Burton has filed a change of address, by April 20, Ms. Quinn is to file a response as to her attempts to locate Ms. Burton.

Objections to the Declaration of Elizabeth Quinn are overruled; however, she is incorrect as to the effect of CCP 683.040. In this case there is no possible reason that the issuance of a writ was barred until the CCP. The bankruptcy is not a reason. There is no evidence that Ms. Burton or her attorney ever tried to enforce the judgment other than filing a proof of claim.

Tentative Ruling on Amended Objection to claim #14 (dkt. 300)

**Has Ms. Burton located Ms. Quinn and has Ms. Quinn been given notice?**

On February 18, 2010, Shoemaker filed a petition under chapter 13 (1:10-bk-15744), which was dismissed on March 15, 2010. The current chapter 7 case was filed on May 25, 2010. Shoemaker filed a motion to extend the automatic stay on May 26, 2010 and set it for hearing on June 23,

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2010 (dkt. 3). Apparently there was some problem with that hearing date and on June 24, 2010 he filed an application to shorten time for a hearing on that motion (dkt. 9). The application to shorten time was denied on July 6, 2010 (dkt. 11) and the hearing was set for August 4, 2010. The court entered its order denying the motion to impose the stay on November 17, 2010 (dkt. 32).

11 USC §362(c)(3) applies when a second bankruptcy case is filed by an individual within a one year period of a prior case that was dismissed. Under these circumstances, the automatic stay terminates 30 days after the filing of the current chapter 7 petition unless the stay is extended by the court. The motion to extend requires notice and a hearing that is completed within the 30 day period after the subsequent case is filed. In this case the hearing was not completed within the 30 day period and, even if it had been, the motion to extend the stay was denied. Thus, the automatic stay in the current case terminated by force of law on June 24, 2010, even though the order denying the motion to extend was not entered until November 17, 2010. The record clearly shows that there was no hearing within the 30 days – in fact the application to shorten time was filed the day before the last day of the stay and no hearing was held on that day. Thus the stay terminated as a matter of law on June 24, 2010, so there was no stay in effect when Ms. Burton obtained her judgment on October 28, 2010. And unlike the issue of giving notice to creditors of the denial of discharge, no notice was required concerning the termination of the automatic stay because this occurred as a matter of law when no timely extension was granted. The judgment was not renewed prior to October 29, 2010 and is no longer subject to collection. SUSTAIN THE OBJECTION.

<b>Party Information</b>
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